

**FILED**

**SEP 29 2014**

**Clerk, U.S. District Court  
District Of Montana  
Missoula**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

CLINTON RUSTHOVEN,

Plaintiff,

vs.

VICTOR SCHOOL DISTRICT, #7,

Defendant.

CV 14-170-M-DLC-JCL

ORDER

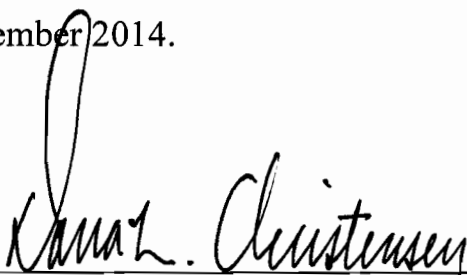
United States Magistrate Judge Jeremiah C. Lynch entered his order, findings, and recommendation in this case on August 28, 2014. Judge Lynch granted Plaintiff's motion to proceed in forma pauperis, recommended dismissal of Plaintiff's complaint without prejudice, and ordered that Plaintiff file an amended complaint, should he choose to do so, by September 26, 2014. Prior to this Court entering an order adopting Judge Lynch's findings and recommendation, Plaintiff filed an amended complaint.

Generally, under the Federal Rules of Civil Procedure, "when a plaintiff files an amended complaint, the amended complaint supercedes the original, the latter being treated thereafter as non-existent." *Rhodes v. Robinson*, 621 F.3d

1002, 1005 (9th Cir. 2010) (citations and internal quotation marks omitted).  
Because Plaintiff's September 25, 2014 amended complaint superceded his original, now non-existent May 23, 2014 complaint, Judge Lynch's findings and recommendation regarding dismissal of the original complaint are moot.

Therefore, IT IS ORDERED that Judge Lynch's Findings and Recommendation regarding dismissal of Plaintiff's original complaint (Doc. 8) are REJECTED as moot. This action shall proceed in light of Plaintiff's September 25, 2014 amended complaint.

DATED this 29<sup>th</sup> day of September 2014.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

Dana L. Christensen, Chief Judge  
United States District Court